

REMARKS

Confirmation of Interview

Applicants below signed representative would like to thank Examiner Chea for the courtesies extended to him during the Interview on November 21, 2005 with respect to the above-identified case.

As discussed during the Interview, a further Declaration has been prepared and submitted herewith to address the Examiner's concerns as outlined during the Interview and in the Advisory Action.

Claim Status

No amendments have been made herein. Thus, Claims 2-9 and 15-18 are pending. Claim 15 is an independent claim upon which all other claims ultimately depend.

Terminal Disclaimers

In the Office Action dated June 28, 2005, three obviousness-type double patenting rejections have been put forward. One based on U.S. Application 10/336,920, another based on U.S. Application 10/631,910 and, finally, one based on

issued U.S. Patent No. 6,699,649. Three Terminal Disclaimers, one to each of these references, is attached hereto.

Declaration

The attached Declaration is focused on the test results of Fukui and is presented to address the Examiner's comments made both in the Advisory Action and during the Interview.

First, with respect to the material made in accordance with Fukui and the material made in accordance with the present Invention as compared to the Fukui material, a typographical error was noted in Paragraph 9 of the March '05 Declaration. Specifically, Samples 3-6 were exposed and processed in accordance with the teachings of Fukui, not Oya. This point was noted by the Examiner and clarification has been made by way of the attached Declaration.

Second, with respect to fog, Fukui does not specify how his fog is tested. The Declarant does not know why Fukui's fog values are different from Applicant's fog values since Fukui does not explain how he tests the fog.

The purpose for running tests for some of the examples at both 810 nm and 814 nm is because the samples of the present Invention were evaluated at 814 nm. Thus, the purpose for presenting this additional data of 814 nm is simply to round out the numbers. It is noted that Fukui only teaches evaluating 810 nm.

As noted in the Declaration, the image lasting quality shows that the present Invention has better long term stability. For example, D_{\min} should be ideally 100. Thus, the farther away from D_{\min} , the poorer the image. A D_{\max} should be 100. Thus, the farther away from 100 for D_{\max} indicates poorer quality. The present Invention provides a hue angle between 190 and 260. As can be seen, the hue angle of the Fukui material did not fall within this range. Thus, the image lasting quality of the samples made in accordance with Fukui are clearly different than, and inferior to, that of the present Invention.

Samples 3 and 4 in Table 4 were made in an identical manner to Sample 1 of Fukui while Samples 5 and 6 were made in an identical manner to Sample 7 of Fukui except for the fact that the support was made in accordance with the present Invention as outlined on pages 110-111 of the Application and for the fact

that reducing agent 1-1 of Fukui was replaced with reducing agent f of PS '266 in equimolar amount for Samples 4 and 6. Thus, the chemical compositions for both Fukui and the present Invention as tested in Tables 4 and 5 are identical except for the support and the change of the reducing agent.

Finally, in the Declaration, the Declarant believes that the results are surprising and unexpected and are attributable to the ring structure which appears in the reducing agent as present on the carbon which bridges the two phenol groups. The Declarant believes that one of skill in the art would not attribute such a difference in results and, especially, such superior results to the simple change in ring structure.

Conclusion

In view of the foregoing and the enclosed, it is respectfully submitted that the Application is in condition for allowance and such action is respectfully requested. PTO Form 2038 is enclosed herewith authorizing payment of the appropriate Terminal Disclaimer filing fees. Should any further fees or extensions of time be necessary in order to maintain this

Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

LUCAS & MERCANTI, LLP

By:



Donald C. Lucas, 31,275
Attorney for Applicant(s)
475 Park Avenue South, 15th Floor
New York, New York
Tel. # 212-661-8000

Encl: Three executed Terminal Disclaimers
Executed PTO Form 2038
Executed Declaration of Mr. Fukusaka
Return receipt postcard

DCL/mr